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Attorneys for Defendant  
THONGSOUK THENG LATTANAPHOM

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	No. Cr-S-99-0433 WBS
	)	
Plaintiff,	)	
	)	
v.	)	<b>MOTION AND [PROPOSED] ORDER</b>
	)	<b>CONTINUING SENTENCING</b>
	)	
THONGSOUK THENG LATTANAPHOM,	)	Judge: Hon. William B. Shubb
	)	
Defendant.	)	
	)	
_____	)	

Defendant THONGSOUK LATTANAPHOM, by and through his counsel, hereby moves to continue his sentencing 90 days to permit his recently assigned counsel sufficient time to complete their necessary preparations for sentencing. Mr. Lattanaphom is currently scheduled for sentencing on September 21, 2009, at the same time as the codefendants.

As detailed in the supporting declarations of counsel, filed ex parte and under seal, Mr. Lattanaphom's counsel are diligently preparing for sentencing. The length of continuance requested, 90 days, is sufficient to permit counsel to complete their preparations for sentencing. The inconvenience this continuance might cause the court is small compared to the prejudice Mr. Lattanaphom will suffer without the requested continuance. It is apparent from the government's opposition

to codefendant Hoang Ai Le's request for a writ of habeas corpus ad prosequendum,<sup>1</sup> that the government will not be harmed by this request. It is also clear that Mr. Lattanaphom will suffer extreme harm without a continuance. He faces a sentencing recommendation of life plus 540 months in prison. Even though Mr. Lattanaphom was a juvenile at the time of the crimes, he faces a life without possibility of parole term as the federal prison system offers no supervised release to juvenile offenders sentenced to life terms.

These factors collectively justify granting Mr. Lattanaphom's request for a 90 day continuance of sentencing. See *United States v. Rivera-Guerrero*, 426 F.3d 1130, 1139-1143 (9<sup>th</sup> Cir. 2005)<sup>2</sup>; *United States v. Flynt*, 756 F.2d 1352, 1359 (9<sup>th</sup> Cir. 1985) (setting out four factors outlined above and holding that "[t]he weight ... attributed to any single factor may vary with the extent of the showings on the other factors.").

Dated: September 11, 2009

Respectfully submitted,

DANIEL J. BRODERICK  
Federal Defender

/s/ Ann C. McClintock  
ANN C. MCCLINTOCK  
Assistant Federal Defender  
Attorneys for Defendant  
THONGSOUK LATTANAPHOM

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<sup>1</sup> See Docket entry no. 1309, page 2 (recital that government opposes having Mr. Le transported back to the Eastern District of California for sentencing on September 21, 2009, suggests government is not harmed by having the defendants separately sentenced.)

<sup>2</sup> As *Rivera-Guerro* observed, a district court's denial of a continuance, even after it concludes that a defendant failed the diligence prong of the *Flynt* analysis, may still be reversible error. 436 F.3d at 1140, citing as an example, *United States v. 2.61 Acres of Land, More or Less, Situated in Mariposa County, State of Cal.*, 791 F.2d 666, 671-72 (9th Cir. 1985).

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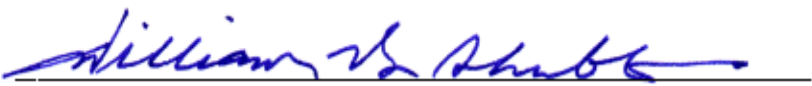
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THONGSOUK THENG LATTANAPHOM,	)	Judge: Hon. William B. Shubb
	)	
Defendant.	)	
	)	
_____	)	

**ORDER**

IT IS HEREBY ORDERED that for the reasons stated in the Defendant's motion to continue, that the sentencing hearing now set for defendant THONGSUK THEN LATTANAPHOM is continued from September 21, 2009, to January 19, 2010, at 9:00 a.m.

Dated: September 21, 2009

  
WILLIAM B. SHUBB  
UNITED STATES DISTRICT JUDGE